

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN HARRIS,

Plaintiff,

-against-

**DECLARATION OF
CHRISTOPHER G. ARKO**

CITY OF NEW YORK; Lieutenant ANGEL LEON;
Detective KRISTEN SWINKUNAS (Shield # 2190); Police
Officer ANTONELLA JIMENEZ (Shield # 5209); Police
Officer MAXWELL BALTZER (Shield No. 15451); and
Lieutenant JOHN LANE,

20 Civ. 10864 (LGS)

Defendants.
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CHRISTOPHER G. ARKO, an attorney duly admitted to practice in the Southern District of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a Senior Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for defendants City of New York, Lieutenant Angel Leon, Detective Kristen Swinkunas, Officer Antonella Jimenez, Officer Maxwell Baltzer, and Lieutenant John Lane. As such, I am familiar with the facts and circumstances stated herein based on the books and records of the City of New York, and conversations with its agents and employees. I make this declaration in support of defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. In support of their motion, defendants submit the following exhibits:

3. Annexed hereto as Exhibit "A" is the Complaint ("Compl."), filed on December 23, 2020 alleging claims for excessive force, false arrest, and fabrication of evidence against

defendants Lieutenant Angel Leon, Detective Kristen Swinkunas, and Officer Antonella Jimenez.

4. Annexed hereto as Exhibit “B” is the First Amended Complaint (“FAC”), filed on April 30, 2021 alleging claims for excessive force against Lieutenant Angel Leon, Detective Kristen Swinkunas, Officer Antonella Jimenez, Officer Maxwell Baltzer, and Lieutenant John Lane and claims for assault and battery against the City of New York.

5. Annexed hereto as Exhibit “C” is defendants’ Answer to the First Amended Complaint (“Ans.”), filed on June 3, 2021.¹

6. Annexed hereto as Exhibit “D” is the transcript of plaintiff’s 50-h hearing (“50-h”), which was conducted on February 8, 2021.

7. Annexed hereto as Exhibit “E” is the transcript of plaintiff’s deposition (“Pl. Dep.”), which was conducted on October 25, 2021.

8. Annexed hereto as Exhibit “F” is the transcript of Officer Maxwell Baltzer’s deposition (“Baltzer Dep.”), which was conducted on November 3, 2021.

9. Annexed hereto as Exhibit “G” is the transcript of Lieutenant Angel Leon’s deposition (“Leon Dep.”), which was conducted on November 17, 2021.

10. Annexed hereto as Exhibit “H” is the transcript of Lieutenant John Lane’s deposition (“Lane Dep.”), which was conducted on November 9, 2021.

11. Annexed hereto as Exhibit “I” is the transcript of Detective Kristen Swinkunas’ deposition (“Swinkunas Dep.”), which was conducted on November 4, 2021.

12. Annexed hereto as Exhibit “J” is the transcript of Officer Antonella Jimenez’s deposition (“Jimenez Dep.”), which was conducted on November 10, 2021.

¹ Defendants filed an Answer to the First Amended Complaint attaching body-worn camera as an exhibit on May 28, 2021, which was rejected by Order of the Court on June 2, 2021. See ECF Nos. 31, 33.

13. Annexed hereto as Exhibit “K” is the transcript of New York City Department of Sanitation Deputy Director of Payroll Iris Wright’s deposition (“Wright Dep.”), which was conducted on December 8, 2021.

14. Annexed hereto as Exhibit “L” is body-worn camera video from Lieutenant Angel Leon (“Leon BWC #1”), showing plaintiff repeatedly refusing to comply with police commands to back away from his Chevy Tahoe, which the officers suspected contained evidence of a shooting.

15. Annexed hereto as “Exhibit M” is body-worn camera video from Lieutenant Angel Leon (“Leon BWC #2”) taken while plaintiff was being logged into the 26 Precinct, during which he states that he weighed 280 pounds on September 2, 2020.

16. Annexed hereto as Exhibit “N” is body-worn camera video from Officer Antonella Jimenez (“Jimenez BWC”), showing plaintiff’s conduct after he was tased.

Dated: New York, NY
March 2, 2022

HON. SYLVIA O. HINDS-RADIX
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By: /s/ Christopher G. Arko
Christopher G. Arko
Senior Counsel
Special Federal Litigation Division

cc: Doug Lieb, Esq. (by ECF)
Alanna Kaufman, Esq. (by ECF)
Attorneys for plaintiff